IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 36312 of 2005(W)

PETITIONER:

S.HARIDAS, HARIGIRI,
AKKOLIL CHERRY, MAYYANAD, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
THE PRINCIPAL SECRETARY, FINANCE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA STATE FINANCIAL CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

3. THE CHIEF MANAGER,
KFC, DISTRICT OFFICE, YMCA BUILDING,
KOLLAM.

4. THAMBURATTI PLASTICS,
CHENATHAPOORE, DECENT JUNCTION,
KOLLAM REPRESENTED BY ITS MANAGING PARTNER,
P.SURESH KUMAR.

BY ADV. SRI.A.A.ABUL HASSAN, SC, KFC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.36312/2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE TREATMENT CERTIFICATE ISSUED FROM THE MEDICAL OFFICER IN CHARGE, REGIONAL CANCER CENTRE, THIRUVANANTHAPURAM DTD.20.11.1998.

EXT.P2 TRUE COPY OF THE TAX RECEIPTS DTD.6.12.2005 ISSUED BY THE VILLAGAE OFFICER, MAYYANAD EVIDENCING THE TITLE OF THE PETITIONER'S PROPERTIES.

EXT.P3 TRUE COPY OF THE NOTIE NO.R/100254710/4893/03 DTD. 2.8.2003.

EXT.P4 TRUE COPY OF THE NOTICE NO.KLM/100254710/4989103 DTD.16.8.2003 ISSUED BY THE THIRD RESPONDENT.

EXT.P5 TRUE COPY OF THE LETTER NO.100254710 DTD. 5.1.2004 ISSUED BY THE THIRD RESPONDENT.

EXT.P6 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER BEFORE THE IST RESPONDENT DTD.7.12.2004.

EXT.P7 TRUE COPY OF THE NOTICE NO.KFC/KLM/100254710/420/731/05 DTD.12.7.2005 ISSUED BY THE THIRD RESPONDENT.

EXT.P8 TRUE COPY OF THE NOTIFICATION PUBLISHED BY RESPONENTS 1 TO 3 IN THE KERALA KAUMUDHI DAILY DTD.26.6.2007.

RESPONDENT'S EXHIBITS:

EXT.R2A TRUE COPY OF THE DEED OF GUARANTEE DTD.23.10.1999.

EXT.R2B TRUE COPY OF THE JUDGMENT DTD.19.12.2005 IN W.A.NO. 1493/2004 OF THIS COURT.

EXT.R2C TRUE COPY OF THE STATEMNET OF ACCOUNTS FROM 1.11.1999 TO 30.6.2006.

EXT.R2D TRUE COPY OF THE STATMEENT OF ACCOUNTS FROM 1.7.2000 TO 30.6.2006.

EXT.R2E TRUE COPY OF THE STATEMENT OF ACCOUNTS FROM 1.9.2000 TO 30.6.2006.

TRUE COPY

P.A.TO JUDGE

C.N.RAMACHANDRAN NAIR,J

W.P.(C) NO.36312 of 2005

Dated this the 4th day of July, 2007

JUDGMENT

The petitioner is admittedly a guarantor for the loan availed by the 4th respondent who is the petitioner's brother in law. When the writ petition came for admission on 23.12.2005, this court recorded the statement of the KFC that the property of the defaulter which was put to sale could not be sold. Therefore this court gave freedom to the petitioner to find a purchaser for defaulter's property, so that the petitioner could save his property. Stay was extended by three weeks on 12.1.2006. However, neither the petitioner nor the defaulter had done anything within this time. Therefore, the Corporation is entitled to proceed against the property of the petitioner who is admittedly the guarantor. I do not find any justification to extend the stay because the time expired in the first week of February 2006 and respondents 1 to 3, after the expiry of the stay, could have

proceed for sale of the property. However, before the confirmation of sale, the petitioner can arrange a purchaser for settling the loan, if the petitioner wants to save his property.

The writ petition is closed with the above observations.

C.N.RAMACHANDRAN NAIR,
JUDGE

CSS